

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:23-cv-00033-MR  
[CRIMINAL CASE NO. 2:06-cr-00004-MR-WCM-1]

TERENCE HOWARD ROACH, )  
Petitioner, )  
vs. ) ORDER  
UNITED STATES OF AMERICA, )  
Respondent. )

**THIS MATTER** is before the Court on Petitioner's Pro Se "Motion Requesting Certificate of Appealability/Notice of Appeal from United States District Court Western District of North Carolina." [Doc. 4].

On March 7, 2023, the Court denied and dismissed Petitioner’s Pro Se Motion to Vacate under 28 U.S.C. § 2255 as untimely. [Doc. 2]. The Court declined to issue a certificate of appealability because Petitioner did not make a substantial showing of a denial of a constitutional right. [Id. at 6-7]. Now pending is the instant motion in which Petitioner moves this Court to issue a certificate of appealability.<sup>1</sup> Under Rule 11(a) of the Rules Governing Section 2255 cases, “[i]f the court denies a certificate, a party may not appeal

<sup>1</sup> Plaintiff's filing was also docketed as a Notice of Appeal and transmitted to the Court of Appeals for the Fourth Circuit. [Docs. 5, 6].

the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22.” Rule 22 provides, “[i]f the district judge has denied the certificate, the applicant may request a circuit judge to issue it.” Fed. R. App. P. 22(b)(1). As such, Petitioner’s motion is not properly before this Court, and it will be denied.

**IT IS, THEREFORE, ORDERED** that Plaintiff’s motion [Doc. 4] is **DENIED**.

**IT IS SO ORDERED.**

Signed: May 1, 2023



Martin Reidinger  
Chief United States District Judge

